

APPENDIX C – PROPOSED REPLACEMENT SECTION

4.02

Transfer of Development Rights (TDR) Option

4.02.1 Intent. The intent of this section is to offer opportunities to transfer development rights within a given zoning district or between zoning districts. The purpose of the TDR program is to protect agricultural and environmentally sensitive lands while offering landowners flexibility in development options.

4.02.2 Definition. **Transfer of Development Rights** or TDR is a market based technique that encourages the voluntary transfer of growth from places where a community would like to see less development (*sending areas*) to places where a community would like to see more development (*receiving areas*).

4.02.3 Development Rights Defined. A development right is the right to construct a single-family dwelling unit on a parcel other than the parcel from which the density unit is being transferred. It restricts development in the sending areas and increases the density in the receiving areas.

4.02.4 Authorized Development Rights Uses.

1. **RW-160 District.** Parcels within the RW-160 District have one (1) principal development right for an allowable principal use and parcels of 160 acres (or qualified parcels) also qualify for three (3) additional development rights that may be used pursuant to Cluster Subdivision Provision (Section 4.01) for a combined possibility of four (4) development rights that may be used onsite. The principal and additional development rights may be transferred to a designated receiving area within Gallatin County, pursuant to the provisions of this Section.

As a means to preserve the wildlife corridor along the base of the Bridger Mountain Range and increases the option for continuing agriculture and to transfer development to areas more appropriate for increased density, the property owner of a 160-acre parcel (or qualified) may transfer development rights to an approved receiving area within Gallatin County; and as an incentive for transferring development, each development right (principal and additional) transferred out of the area is equal to two (2) development rights. Therefore, a development right used onsite is valued at one (1) development right, but if the development right is transferred to a designated receiving area within Gallatin County it has a value of two (2) development rights. The increases value of development rights only applies to the development rights transferred. Other combinations exist.

An example of using a combination of development rights: A 160-acre parcel with a single family dwelling (principal development right) may choose to create

a two- (2) lot subdivision pursuant to Cluster Subdivision Provision (Section 4.01), and may then transfer the one (1) additional development right remaining to a designated receiving area within Gallatin County at a value of two (2) development rights because it is transferred out of the area.

2. **AR-80 District.** Parcels within the AR-80 have one (1) principal development right for an allowable principal use and parcels of 80 acres (or qualified parcels) also qualify for one (1) additional development right that may be used pursuant to the Cluster Subdivision Provision (Section 4.01) onsite, or the additional development right may be transferred to an approved designated receiving area within Gallatin County.

As a means to increase the option for continuing agriculture and to transfer development to areas more appropriate for increased density, the property owner of an 80-acre parcel (or qualified) may transfer development rights to an approved designated receiving area within Gallatin County. Each development right (principal and additional) is equal to one (1) development right each.

An example of using a combination of development rights: A 80-acre parcel with a single family dwelling (principal development right) may choose to create one (1) additional lot pursuant to the Cluster Subdivision Provision (Section 4.01); or transfer the one (1) additional development right to a designated receiving area. Other combinations exist.

4.02.5 Number of Development Rights Which May Be Transferred.

1. **RW-160 District:** A 160 acre-parcel (or qualified parcel) has up to four (4) development rights to use onsite or up to eight (8) development rights that may be transferred to an approved designated receiving area within Gallatin County. Using only one (1) development right or any authorized combination (onsite or transferred) is allowed.
2. **AR-80 District:** An 80 acre-parcel (or qualified parcel) has up to two (2) development rights (principal and one additional) that may be transferred to an approved designated receiving area within Gallatin County. Using only one (1) development right or any authorized combination (onsite or transferred) is allowed.

4.02.6 Sending Areas. Parcels within the AR-80 District and RW-160 District.

4.02.7 Receiving Areas. Any approved receiving area within Gallatin County, which may have been designated a receiving area prior or subsequent to the adoption of these Regulations.

1.02.8 Mechanism for Transferring Development Right.

A property owner may transfer a development right after securing a Conditional Use Permit as specified in Section 5.04. The development right(s) transferred shall be

recorded on the Deed of the sending area parcel. It shall indicate the number of development rights transferred, the number remaining on the parcel, and the designated receiving area in receipt of the development rights.

4.02.9 Future Expanded TDR Programs.

At adoption of these Regulations there is not a countywide Transfer of Development (TDR) Program in Gallatin County. If in the future the County Commission approves a countywide or inter-district TDR program, Reese Creek Zoning District will automatically qualify for participation. The mechanism and all other requirements of the TDR provisions of these Regulations shall apply to Reese Creek Zoning District.

4.02.10 Recording of Transfer of Development Rights.

Transfer of development rights shall become effective after the transferring landowner has recorded with the Clerk and Recorder of Gallatin County and the Gallatin County TDR Coordinator or Zone Enforcement Agent, a document identifying the sending tract of record and indicating the number of development rights transferred and the number of any development rights remaining on the sending-area tract of record.

4.02.11 District Record.

A current record of development rights and record of all transfers of development rights shall be maintained by the Gallatin County TDR Coordinator or Zone Enforcement Agent and stored in the Planning Department.